

TripTelevision Terms & Conditions of Service

Version 2 – Effective May 1, 2008

By executing one or more purchase orders (each a “Purchase Order”) for products and services provided by TripTelevision. (“TripTelevision”), customer (“Customer”) agrees that the following terms and conditions of service (these “Terms and Conditions”) are incorporated into and made part of each such Purchase Order.

TripTelevision may at its discretion modify these Terms and Conditions at any time for new or renewal Purchase Orders. If a term or condition specified by these Terms and Conditions conflicts with a term or condition of a particular Purchase Order, then the term or condition of the Purchase Order will, with respect to that Purchase Order only, take precedence over the conflicting term or condition specified by these Terms and Conditions.

PAYMENT & INVOICING:

TripTelevision will invoice customers for regular monthly charges (“**Regular Charges**”) and variable monthly charges (“**Variable Charges**”). Customers will receive an electronic invoice for Regular Charges and Variable Charges on a monthly basis for the applicable calendar month period with payment of each such invoice being due and payable 30 days from the date of the invoice.

*Invoices not paid on or before 45 days from the invoice date (the “**Invoice Late Date**”) will accrue a late fee equal to the greater of (I) \$50.00 or (II) 1.5% of the outstanding balance of the invoiced amounts.*

If an invoice is not paid on or before the Invoice Late Date, TripTelevision will have the right to, at its election, terminate the use of the product following five (5) days notice, provided that amounts due under an applicable invoice are not paid prior to the last day of such five (5) day period (the “Late Payment Termination Right”).

If TripTelevision does not elect to exercise its Late Payment Termination Right, then TripTelevision shall continue to provide services. Applicable Regular Charges and Variable Charges will continue to accrue.

If payment of all amounts due is not made within the thirty (30) day period following the applicable Invoice Late Date, an “Elective Termination Notice” (as defined below) will be deemed to have been provided by the customer to TripTelevision as of the Invoice Late Date.

In the event that the customer fails to pay all amounts due on or before the date thirty (30) days after the Invoice Late Date and TripTelevision finds it necessary to pursue collections, the customer shall be responsible for and shall pay for TripTelevision’s reasonable collections costs and legal fees.

Termination of a Purchase Order or suspension of services as provided above shall not prejudice any other rights or remedies that may be available to TripTelevision with respect to any nonpayment of Regular Charges or Variable Charges.

In the event a customer has a dispute with any amounts due, written notification must be sent to TripTelevision within five (5) days after Customer receipt of the invoice. Such receipt shall be assumed to occur no more than five (5) days after the date on which the invoice was properly sent via U.S. Mail or delivered electronically to an address provided by the customer to TripTelevision.

TERM & RENEWAL:

Except as otherwise specified in these Terms and Conditions or in the particular Purchase Order to which these terms and Conditions apply, the initial term of each Purchase Order (the “**Initial Term**”) will commence on the effective date of the Purchase Order and continue for the Initial Term of 1 year. Following the Initial Term of each Purchase Order, the Purchase Order will automatically renew each year on the anniversary of the original Purchase Order date (each a “**Renewal Term**”) unless otherwise specified by a party in writing to the other party at least thirty (30) days prior to the end of the then current Initial Term or Renewal Term.

TripTelevision shall have the right to modify the pricing for products and services specified on a Purchase Order with respect to any Renewal Term for such Purchase Order by providing Customer with written notice of such pricing changes at least ninety (90) days prior to the start of such Renewal Term.

TERMINATION:

Either party may terminate a Purchase Order with one-hundred-twenty (120) days prior written notice to the other party (the “**Elective Termination Notice**”). The Customer is responsible for payment of all Regular Charges and Variable Charges applicable to the period during which any such termination notice is pending.

TripTelevision may also terminate a Purchase Order upon five (5) days prior written notice to the Customer for cause as determined by TripTelevision. The Customer will remain responsible for and pay all amounts due under such Purchase Order for services provided prior to the date of termination.

CONTENT:

The term “**Content**” means Customer graphics, text, video, and audio and includes, without limitation, any other graphics, text, video, and audio that is to be used, modified, copied, adapted, exhibited, published, transmitted and distributed by TripTelevision pursuant to a Purchase Order.

Content may not contain (a) illegal, immoral, profane, defamatory, pornographic, obscene language or material or (b) race, sex or ethnic based derogatory or inflammatory material, unless approved by TripTelevision in advance.

TripTelevision will notify the Customer in writing of any Content that does not meet the foregoing criteria and, following the provision of such notice to the Customer, TripTelevision shall have the right to not use, modify, copy, adapt, exhibit, publish, transmit or distribute such Content.

THE CUSTOMER AGREES TO PAY, WAIVE OR HAVE WAIVED BY THE APPLICABLE THIRD PARTY ANY AND ALL ROYALTIES AND/OR LICENSE FEES

(E.G. BMI, ASCAP, SESAC, ETC.) APPLICABLE TO THE BROADCAST OF THE CONTENT AS SPECIFIED BY A PURCHASE ORDER AND FURTHER AGREE INDEMNIFY AND DEFEND TRIPTELEVISION WITH RESPECT TO ALL SUCH ROYALTIES AND/OR LICENSE FEES APPLICABLE TO CUSTOMER CONTENT.

MEDIA BASED VIDEO & AUDIO CONTENT:

All media based audio and/or video Content should be provided to TripTelevision in one of the following digital formats: .avi, .dv, .mov, .qt, .mpg, .mpg2, .mpeg, .mpeg2, .mpeg4, .mp3, .mp4, .3gp, .asf, or .wmv. Additional media formats may be acceptable, but only upon written acceptance from TripTelevision.

If any video or audio Content is provided to TripTelevision on media other than those specified in the preceding paragraph, the Customer may, at TripTelevision's discretion, be charged dubbing and/or handling fees for the transfer of the applicable Content to media specified by this paragraph. TripTelevision will have no liability to the Customer for delays or service interruptions caused by Customer provision of Content to TripTelevision on media not specified in the preceding paragraph.

ENCODED VIDEO & AUDIO CONTENT:

All previously encoded video and audio Content provided by the Customer to TripTelevision should be provided on either CD-ROM or DVD-ROM media or uploaded directly to TripTelevision's systems using such ftp or extranet systems as specified to the Customer by TripTelevision. Based on previous video and audio compression settings, TripTelevision reserves the right to limit playback quality.

The only accepted formats for pre-encoded video and audio content are as follows: Windows Media 7, 8, 9 & 10; Real Media 8 & 9; MPEG-1; MPEG-2; MPEG-4; AVI; Apple QuickTime 5, 6 & 7; Flash Video, WAV and MP3. Encoded content delivered by the Customer in any format other than those specified by this paragraph may still be accepted by TripTelevision, but the Customer may, at TripTelevision's discretion, be charged dubbing and handling fees for the transfer of the applicable Content to media specified by this paragraph.

TripTelevision will have no obligation to provide any services to the Customer pursuant to a Purchase Order with respect to any such Content. In addition, TripTelevision is and will not be responsible for any problems or issues resulting from Customer own encoding and uploading of the Content including, without limitation, any problems encountered in the transcoding of such Content by TripTelevision or the quality of the resulting transcoded Content. If TripTelevision provides the Customer with any encoding and/or uploading software or systems and/or access to any such software and systems, the Customer will only use such software and systems in the manner specified by TripTelevision in the written documentation for such software and systems that is made available by TripTelevision.

TEXT & GRAPHICS:

All graphics should be provided to TripTelevision in .JPEG, .TIFF, .PNG, .PSD or any other Photoshop file type. All text should be provided to TripTelevision in .TXT, .RTF or Microsoft Word format (NO .PDF Files). Any graphics delivered by the Customer in formats other than those specified by this paragraph may not be accepted by

TripTelevision and TripTelevision will have no liability or obligation to the Customer with respect to any such graphics or text.

CONTENT OWNERSHIP & LICENSE:

All Content, including all copies of Content resulting from encoding, transcoding or other services provided to the Customer by TripTelevision pursuant to a Purchase Order, shall remain the Customer's sole and exclusive property. The Customer hereby grants TripTelevision a non-exclusive, worldwide, royalty free license (the "**Content License**") to use, modify, copy, adapt, exhibit, publish, transmit and distribute the Content as required for TripTelevision's provision of the services specified by a **Purchase Order during the term of such Purchase Order.**

For a period of no less than thirty (30) calendar days following the termination or expiration of a Purchase Order (the "**Content Holding Period**"), TripTelevision will maintain any copies that it may have of all Content related to the Purchase Order.

CONTENT TRANSFER AND DELETION:

The Customer may, at any time during the Term of a purchase order and the Content Holding Period, request that TripTelevision provide copies of Customer video and audio Content either on DVD-ROM or by ftp upload (a "**Content Transfer Request**"). Following receipt of a Content Transfer Request, TripTelevision will coordinate with the Customer the timing and method of the requested transfer and invoice the Customer in advance of the requested transfer for the fees applicable to the transfer (the "**Transfer Fee**"). The time period for the transfer will vary depending on the total amount of Content to be transferred. However, no transfer of Content will be made prior to payment of the applicable Transfer Fees and all other outstanding invoice amounts and TripTelevision will have at least thirty (30) days following the payment of the applicable Transfer Fee and all outstanding invoice amounts to complete the requested transfer.

The Transfer Fee will be based upon the following schedule: (a) for DVD-ROM based transfers, \$10.00 per disk plus \$1.00 per file plus actual shipping costs and (b) for ftp based transfers, \$10.00 per gigabyte of Content and \$1.00 per file. TripTelevision may, but is under no obligation to, transfer any graphics or text content.

HOSTED SOFTWARE LICENSE:

TripTelevision hereby grants the Customer a non-exclusive, terminable, limited license to access and use any hosted software (the "**Hosted Software**") for which TripTelevision provides with access

(a) only during the term of the Purchase Order under which the Hosted Software is provided and

(b) only as required for use or receipt of the services specified by such Purchase Order.

If access and use of the Hosted Software requires a user name and password, the Customer may access and use the Hosted Software only through the Customer use of the user name and password provided by TripTelevision. The Customer may not sublicense the Hosted Software or allow third-parties to use or access the Hosted Software without TripTelevision's written consent.

APPLICATION SOFTWARE LICENSE:

TripTelevision hereby grants Customer a non-exclusive, terminable, limited license to use any software (the “**Application Software**”) provided by TripTelevision

- (a) only during the term of the Purchase Order under which the Application Software is provided and
- (b) only as required for Customer use or receipt of the services specified by such Purchase Order.

SOFTWARE PROPRIETARY RIGHTS:

Customer acknowledge that TripTelevision owns the Hosted Software and Application Software (together the “**TripTelevision Internet TV Platform**”) and that the TripTelevision Internet TV Platform is not generally published and embodies TripTelevision or its licensor’s trade secrets. All right, title and interest in and to the TripTelevision Software, including, without limitation, all copyrights, trade secrets and other intellectual property rights pertaining in and to the TripTelevision Software shall remain vested in TripTelevision and its third-party licensors. Except as expressly authorized by this Agreement, Customer’s may not modify, copy, distribute, transfer, rent, lease, reverse engineer, decompile or disassemble the TripTelevision Software. Furthermore, other than the use rights granted by these Terms and Conditions, Customer will not use, display or sublicense the TripTelevision Software. TripTelevision reserves all rights not expressly granted by these Terms and Conditions.

Customer will not alter, remove, modify or suppress any confidentiality legends or proprietary notices placed on or contained within the TripTelevision Software and expressly agree not to circumvent, or allow third parties to circumvent, any security or other protections within the TripTelevision Software.

SOFTWARE WARRANTIES:

During the term of applicable Purchase Order, TripTelevision will, at its sole discretion, repair or replace within five (5) business days any TripTelevision Software that materially fails to function in a manner whereby the services provided pursuant to such Purchase Order and by or with such TripTelevision Software are not able to be provided to or accessed by Customer. THE FOREGOING ARE CUSTOMER SOLE AND EXCLUSIVE REMEDIES FOR ANY BREACH OF WARRANTY WITH RESPECT TO THE TRIPTELEVISION SOFTWARE. TRIPTELEVISION MAKES NO WARRANTY OR REPRESENTATION THAT CUSTOMER USE OF THE TRIPTELEVISION SOFTWARE WILL BE UNINTERRUPTED OR ERROR-FREE, AND SPECIFICALLY DISCLAIMS ANY AND ALL WARRANTIES, WHETHER WRITTEN OR ORAL, EXPRESS OR IMPLIED, WITH RESPECT TO THE TRIPTELEVISION SOFTWARE, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

EQUIPMENT:

If specified by one or more Purchase Orders, TripTelevision will deploy hardware or other equipment owned by TripTelevision (the “**TripTelevision Equipment**”) at one or more locations specified by Customer (the “**Equipment Locations**”). The TripTelevision Equipment is and will remain the property of TripTelevision and the Customer agrees to return all TripTelevision Equipment to TripTelevision within ten (10) business days after the termination or expiration of the Purchase Order applicable to the TripTelevision

Equipment. For return, the Customer agrees to pack the TripTelevision Equipment, along with all connectors, parts and documentation, in the equipment's original packaging (or comparable packaging if the original packaging is no longer available) and then ship the TripTelevision Equipment, postage paid and fully insured, to the following address: TripTelevision Equipment Return Center, 9110 E Nichols Ave. Suite #100, Englewood, Colorado 80112 – (303) 482-1707 phone.

The Customer agrees to only use the TripTelevision Equipment and any Application Software installed by TripTelevision on the TripTelevision equipment in the manner specified by the applicable TripTelevision documentation provided. Unless otherwise instructed by TripTelevision, Customer will not

- (a) change any settings or make any modifications to the TripTelevision Equipment;
- (b) install, use or execute any software on the TripTelevision Equipment or allow third-parties or untrained personnel to use or access the TripTelevision Equipment.

It is and will be Customers sole responsibility to make sure that each Equipment Location

- (i) is temperature controlled so that the temperature of the location remains at all times cooler than 78 degrees Fahrenheit and warmer than 60 degrees Fahrenheit;
- (ii) has one or more electrical circuits that are able to provide ample and continuous power to the TripTelevision Equipment deployed at the Equipment location (at least 120 volts, 10 amps per server and 120 volts, 5 amps per unit for any other equipment) and (iii) has dedicated Internet connectivity meeting the requirements specified below in these Terms and Conditions.

Except for damage to TripTelevision Equipment directly caused by TripTelevision's employees or contractors, Customer will be responsible and pay for all damage or loss that occurs to TripTelevision Equipment including, without limitation, any damage to TripTelevision Equipment resulting from the improper use of the TripTelevision Equipment or an Equipment Location not meeting the requirements specified by this paragraph. In addition, TripTelevision will not be responsible or liable for any interruption of service resulting from either

- (i) damage not caused directly by TripTelevision's employees and contractors,
- (ii) improper use of the TripTelevision Equipment by anyone other than TripTelevision's employees and contractors or
- (iii) the failure of an Equipment Location to meet the requirements specified by this paragraph.

SOFTWARE INTERNET CONNECTIVITY:

Unless otherwise specified by a Purchase Order, the Customer is responsible for providing the Internet connectivity (the "**Internet Connectivity**") required by TripTelevision Software deployed at a Software Location. In general, the base Internet Connectivity must be at least a business class DSL or cable modem connection that has a minimum upload and download data transfer capacity of 250kbps each direction (the "**Base Internet Capacity**"). In addition to the Base Internet Capacity, the Internet Connectivity must also have additional upload and download capacity equal to the maximum, total, aggregate bit rates for all streams to be simultaneously broadcast from the Equipment Location (the "**Aggregate Stream Rate**") multiplied by 1.25. If the Aggregate Stream Rate is 350kbps or less, then the per hop latency of the route to TripTelevision's ingress servers via the Internet Connectivity must be no greater than

60ms. If the Aggregate Stream Rate is greater than 350kbps, then the per hop latency of the route to TripTelevision's ingress servers via the Internet Connectivity must be no greater than 40ms. TripTelevision will not be responsible or liable for any interruption of service resulting from the failure **TripTelevision Terms and Conditions of Service** of Internet Connectivity to meet the requirements specified by this paragraph.

SATELLITE SIGNAL ACQUISITION:

If specified by one or more Purchase Orders for satellite acquisition and Internet distribution services, Customer will be responsible for providing all satellite signals and receivers required for TripTelevision's encoding and Internet distribution of a broadcast. In addition, Customer will be responsible for securing all rights required for the broadcast, TripTelevision's acquisition of the broadcast's satellite signal and TripTelevision's encoding and Internet distribution of the broadcast. TripTelevision shall have the right to request copies of all documentation evidencing such rights and shall have the right to withhold its provision of Internet distribution services if any such documents are not provided to TripTelevision within five (5) businesses following its making of such a request.

VIDEO & AUDIO FEEDS:

Unless otherwise specified by a Purchase Order, Customer are responsible for providing the video and audio feeds (the "**Video and Audio Feeds**") required by TripTelevision Equipment located at a Shot Location. The Video and Audio Feeds must meet the following specifications:

Audio Feed Specifications:

Inputs: Line level or Mic level inputs
Connections: XLR, RCA, stereo 1/8" mini jacks
Line level: +4db or -10db
Mic level: -50db to -35db

Video Feed Specifications:

Type: Composite video
Connections: BNC, RCA, S-Video
White Level: 100% IRE
Black Level: 0.5% IRE
Sync Pulse: -7.5 IRE

TripTelevision will not be responsible or liable to the Customer for any interruption of service or any broadcast quality issues resulting from the failure of any Video and Audio Feeds to meet the requirements specified by this paragraph.

ACCESS TO EQUIPMENT:

Customer agree to provide TripTelevision continuous and unrestricted remote access to all Internet connected TripTelevision Equipment and understand and agree that TripTelevision will have the right to connect to the TripTelevision Equipment at any time for maintenance, monitoring and support purposes and that TripTelevision will actually do so from time to time.

DESIGNATED ASSISTANCE:

Customer agree to designate one or more persons to serve as technical contacts (the "**Technical Contacts**") for TripTelevision with respect to all TripTelevision Software deployed at any Customer Locations and to assist TripTelevision with the correction of basic problems (e.g. reboot of a server) related to any TripTelevision Software, Services, or Equipment. If required, a Technical Contact should be on-site and available to TripTelevision by phone during any live broadcast and during the thirty (30) minute period prior to the start of the live event broadcast. In addition, a Technical Contact should be available to assist TripTelevision upon reasonable notice and during regular business hours in the event there is an issue with TripTelevision Equipment outside of a live event broadcast. TripTelevision will not be responsible or liable to Customer for any interruption of service resulting from a TripTelevision malfunction if the service interruption could have been prevented with the assistance of a Technical Contact but a Technical Contact was not available to TripTelevision as specified by this paragraph.

E-COMMERCE & DONATIONS:

If TripTelevision provides Customer with services related to one or more e-commerce storefronts or donations processing systems (each an "**eStore**") pursuant to a Purchase Order, then these services will be provided either (a) where a merchant account is used for payment processing or

(b) where a single merchant account held by TripTelevision is used for payment processing for multiple TripTelevision clients (the "**Aggregate Account**") and then sub-accounted for the purposes of distributions.

If Customers merchant account is used for payment processing, Customer will be responsible for the processing of all payments, refunds and charge backs.

TripTelevision will not be liable to Customer for

- (i) fraudulent or otherwise improper activity by third-parties related to an eStore and any purchases made through the eStore or
- (ii) any claims against Customer by a purchaser of products sold by Customer through an eStore.

SERVICE LEVEL GUARANTY:

Network Availability and System Availability is guaranteed to be free from System Outage during 99.9% of the Total Availability Time (the "**Uptime Guarantee**"). Periods of Service Outage in excess of those specified in this Uptime Guarantee will entitle Customer to a credit towards the Monthly Usage Charges due to TripTelevision by Customer for the applicable calendar month period.

The System Outage percentage of Total Availability Time will be calculated based upon the Total Availability Time for the calendar month in which Service Outage occurs. In the event that Service Outage (as measured using TripTelevision's regular monitoring systems and procedures) exceeds 0.1% of the Availability Hours during a given calendar

month period, Customer may request (within 15 days after the end of the calendar month in question) and shall be entitled to receive a credit of 5% of the fees due to TripTelevision for the applicable calendar month period for each 0.2% of down time (the “Credit”) until the Credit equals 100% of the Regular Charges due to TripTelevision for the applicable monthly period. When and if a Service Outage is detected, Customer should contact the TripTelevision Network Operations Center (NOC) and advise them of the problem. If the staff of the NOC (using TripTelevision’s regular monitoring systems and procedures) is able to confirm the report, the period of unavailability will be recorded by the NOC and used in the calculation of TripTelevision’s performance for that calendar month.

EXCEPT FOR THE UPTIME GUARANTEE SPECIFIED BY THIS PARAGRAPH, TRIPTELEVISION EXCLUDES AND CUSTOMER HEREBY WAIVE ALL REPRESENTATIONS AND WARRANTIES, EXPRESS, IMPLIED OR COLLATERAL, ARISING BY OPERATION OF LAW OR OTHERWISE, INCLUDING BUT NOT LIMITED TO IMPLIED WARRANTIES OF MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE. IN NO EVENT SHALL THE TOTAL AMOUNT OF THE CREDIT FOR ANY PARTICULAR CALENDAR MONTH PERIOD EXCEED THE TOTAL MONTHLY CHARGES DUE TO TRIPTELEVISION FOR THE CALENDAR MONTH. CREDITS WILL ONLY BE ISSUED UPON CUSTOMER REQUEST AS SPECIFIED BY THIS PARAGRAPH.

System Maintenance Periods shall (except as otherwise provided below) occur on Tuesday, Thursday or Friday between 2AM and 6AM Eastern time. Notwithstanding the foregoing, in the event that TripTelevision determines that, due to matters beyond TripTelevision’s reasonable control, a System Maintenance Period is necessary outside of the hours, frequency, and/or duration stated above, TripTelevision will use best efforts to notify Customer prior to such System Maintenance Period and to schedule such System Maintenance Period during non-peak hours (2AM to 6AM Eastern Time). In no event shall a System Maintenance Period constitute failure of performance by TripTelevision under any Purchase Orders or these Terms and Conditions. In addition, Service Outage does not include an outage caused by or related to

(1) Customer responsibilities under a Purchase Order
(2) a System Maintenance Period
(3) any products or services purchased or leased by Customer from a vendor or provider other than TripTelevision (e.g. Customer computer hardware, Customer Internet connectivity, Customer Akamai connectivity, etc.) or
(4) a Force Majeure event. For the purposes of this paragraph, a “Force Majeure event” is an event or circumstance which is beyond the control and without the fault or negligence of the party affected and which by the exercise of reasonable diligence the party affected was unable to prevent provided that event or circumstance is limited to the following:

(a) riot, war, invasion, act of foreign enemies, hostilities (whether war be declared or not) acts of terrorism, civil war, rebellion, revolution, insurrection of military or usurped power, requisition or compulsory acquisition by any governmental or competent authority;
(b) earthquakes, flood, fire or other physical natural disaster, but excluding weather conditions regardless of severity;
(c) strikes at national level or industrial disputes at a national level and
(d) general Internet connectivity outages, interruptions, or problems occurring at a national, regional or local level.

For the purpose of this paragraph, the following definitions shall apply:

- (a) "Network Availability" means the availability of all TripTelevision owned or leased infrastructure affecting the Services including, without limitation, all servers, encoders, routers, switches, leased lines, and other network infrastructure owned or leased by TripTelevision and excluding the TripTelevision Equipment;
- (b) "Services" means the services provided by TripTelevision to Customer pursuant to one or more Purchase Orders;
- (c) "System Availability" means the availability of all TripTelevision computer systems, power systems, and all other non-network related systems that facilitate TripTelevision's provision of the Services;
- (d) "System Maintenance Period" means a period of time during which Customer cannot access the Services because of TripTelevision's hardware and/or software upgrades, upgrades to increase capacity, addition of new features or functions, or improving system reliability and/or performance;
- (e) "Service Outage" means a period of time during which Customer cannot access the Services or during which the Services are otherwise unavailable and
- (f) "Total Availability Time" means the total time available during any calendar month period, excluding System Maintenance Periods during which maintenance is performed and any period during which the applicable Purchase Order is not in effect.

IMITATION OF LIABILITY:

TripTelevision will not be liable to Customer for

- (i) problems occurring with a broadcast once the data stream for the broadcast leaves private networks owned or leased by TripTelevision ;
- (ii) problems or service interruptions arising from or related to the Content;
- (iii) problems or service interruptions related to or arising from a Video or Audio Feed, Internet Connectivity, connectivity with a Content Delivery Network (e.g., Akamai), satellite feed or other connectivity provided to Customer by third parties; or (iv) problems related to a malfunction of equipment owned by Customer or provided to Customer by a third party.

In addition, TripTelevision will not be responsible for any delays or failures in its provision of services when such delays or failures are caused by

- (a) the failure by Customer or a third party to provide, in a timely fashion, TripTelevision with the necessary Content and other materials or assistance required for a broadcast;
- (b) the failure of required third-party services or products arranged by Customer or
- (c) the actions or inactions of Customer or Customer agents or contractors.

TRIPTELEVISION WILL NOT BE LIABLE TO CUSTOMER FOR ANY SPECIAL, INCIDENTAL, PUNITIVE, EXEMPLARY, CONSEQUENTIAL OR TORT DAMAGES, INCLUDING WITHOUT LIMITATION ANY DAMAGES RESULTING FROM LOSS OF PROFITS OR LOSS OF BUSINESS ARISING OUT OF OR IN CONNECTION WITH THE TRIPTELEVISION SOFTWARE, A PURCHASE ORDER AND ANY BROADCAST SERVICES OR OTHER SERVICES OR PRODUCTS FURNISHED BY TRIPTELEVISION, EVEN IF TRIPTELEVISION HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. TRIPTELEVISION'S TOTAL LIABILITY TO CUSTOMER, WHETHER IN CONTRACT, TORT, OR OTHERWISE, ARISING OUT OF OR IN CONNECTION WITH ANY PRODUCTS AND SERVICES PROVIDED, ANY PURCHASE ORDER EXECUTED BY CUSTOMER AND THESE TERMS AND CONDITIONS SHALL NOT EXCEED (A) WITH RESPECT TO ANY CALENDAR MONTH PERIOD, THE TOTAL MONTHLY CHARGES FOR THE CALENDAR MONTH

AND (B) IN THE AGGREGATE, THE TOTAL MONTHLY CHARGES FOR THE THREE (3) PRIOR CALENDAR MONTHS.

INDEMNIFICATION:

Customer agree to and shall indemnify, defend and hold TripTelevision harmless from claims, loss, damage, expense (including reasonable attorney's fees and court costs), or liability (including liability for infringement of a third party's intellectual property rights) arising from:

- (i) the Content,
- (ii) Customer breach of these Terms and Conditions or a Purchase Order,
- (iii) TripTelevision 's acquisition and Internet distribution of any satellite or other broadcast signal specified by Customer and
- (iv) all other claims, loss, damage, expense (including reasonable attorneys fees and court costs), or liability arising out of any commission or omission by Customer in connection with Customer video and audio Content and broadcasts.

TripTelevision agrees to and shall indemnify, defend and hold Customer harmless from claims, losses, damages, expenses (including reasonable attorney's fees and court costs), or liability arising from:

- (a) property damage or personal injury to the extent that such claims arise out of or are caused by TripTelevision's negligence or willful misconduct and
- (b) the infringement of any intellectual property rights of a third-party by the TripTelevision Software.

The indemnification obligations of the parties under this paragraph are subject to:

- (x) prompt receipt of notice (to the extent known by the indemnified party) by the indemnifying party of the claim,
- (y) control of the defense of the claim by the indemnifying party; and
- (z) assistance by the indemnified party in the defense at the expense of the indemnifying party.

In addition, TripTelevision 's indemnification obligation to Customer for the infringement of a third-party's patent rights is conditioned on TripTelevision 's unrestricted right to replace or remove from use at any time and at no liability to Customer any TripTelevision Software that is alleged to infringe a third-party's patent rights and replace such TripTelevision Software with software having sufficient functionality for the services provided pursuant to the applicable Purchase Order and by or with such TripTelevision Software to be provided to or accessed by Customer. In addition, and notwithstanding anything in this paragraph to the contrary, TripTelevision will have no indemnification obligation to Customer for the infringement of a third-party's patent rights if such infringement either

- (1) is based upon a process, system or method used on the Internet in general (i.e. streaming video, digital rights management, web browsing, etc.) or
- (2) requires or includes as part of the allegedly infringed process, system or method any media player, encoding, decoding, networking, video, audio, or web browsing technology not developed by TripTelevision .

LEGAL:

TripTelevision's provision of services and products to the Customer and each Purchase Order shall be governed by the laws of the State of Colorado, excluding choice of laws principles, and subject to the jurisdiction of courts located only within the State of Colorado. No waiver, alteration, modification or cancellation of any of the provisions of

these Terms and Conditions or any TripTelevision Purchase Order accepted by the Customer shall be binding on TripTelevision unless agreed to in writing by TripTelevision.

These Terms and Conditions (as modified as permitted above) and each Purchase Order executed by the Customer constitutes the entire agreement (including, without limitation, all understandings, representations, conditions, warranties and covenants) between the Customer and TripTelevision concerning the subject matter of such Purchase Order and supersedes any prior agreement between the parties. Customer understands and agrees that services may be provided and payments may be collected by a parent or affiliate of TripTelevision.

In the event that the Customer becomes in default under or otherwise breach a Purchase Order or these Terms and Conditions, the Customer agrees to pay all reasonable expenses (including, without limitation, attorneys' fees and collection agency fees) incurred by TripTelevision in its enforcement of its rights under such Purchase Order or these Terms and Conditions.

SPECIAL PROGRAMS:

The Customer will receive from TripTelevision any amounts due pursuant to any referral, commission, revenue sharing or other similar programs first as an offset against amounts due to TripTelevision and then as cash. Any such offsets and payments will be made on or before the last day of the calendar month following the calendar month in which the applicable revenues are collected by TripTelevision.

NOTICE:

Unless the Customer notifies TripTelevision otherwise in writing, all notices from TripTelevision related to a Purchase Order or these Terms and Conditions will be delivered to the persons and addresses specified on the applicable Purchase Order. All notices from the Customer to TripTelevision should be provided to TripTelevision at the following address:

TripTelevision
Attention: Legal Department
9100 E Nichols Ave. Suite #100
Englewood, CO 80112 USA
(303) 482-1707 Main
(303) 379-5859 Fax
Legal@TripTelevisionProductions.com